

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

QUILLON EDWARD CLEMONS,

Plaintiff,

v.

SHERIFF PAUL PASTOR, MARTHA
KARR, JUDY SNOW, ERIKA
ZIMMERMAN, and MARY SCOTT,

Defendants.

No. C10-5235 RJB/KLS

ORDER TO SHOW CAUSE OR FILE AN
AMENDED COMPLAINT

On December 22, 2010, Plaintiff was granted leave to file an amended complaint to state facts as to his claims relating to: (1) medical care; (2) temperature in his cell; (3) sanitary conditions of his cell; (4) excessive noise; and (5) failure to train subordinates. ECF No. 43. Plaintiff was advised that his amended complaint should state facts relating to these claims only and that he is required to show how each defendant personally participated in the alleged violation of his constitutional rights. Plaintiff was given until January 14, 2011 to file his amended complaint. *Id.* On January 9, 2011, Plaintiff submitted a 34 page "Report and Brief in Support of a § 1983 Civil Action." ECF No. 46. The filing consisted almost entirely of legal citations and conclusions. On January 19, 2011, the court again directed Plaintiff to file an amended complaint or show cause on or before February 11, 2011, stating why he has not complied with the court's order to file an amended complaint and why this matter should not be dismissed.

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1 Instead of filing an amended complaint or responding to the order to show cause, Plaintiff
2 filed a motion for the issuance of subpoena (ECF No. 46), which was denied. ECF No. 48. In
3 that Order, the court advised Plaintiff that all discovery was stayed until he had filed an
4 acceptable amended complaint. *Id.* On January 25, 2011, Plaintiff filed an affidavit and the
5 affidavit of a “witness.” ECF Nos. 49 and 50. He also sent a letter to Magistrate Judge Kelley
6 Arnold regarding the “conditions of confinement.” ECF No. 51. On January 27, 2011, Plaintiff
7 filed a motion for summary judgment and a motion for an official and personal investigation.
8 ECF Nos. 53 and 54. These motions are also premature as no acceptable amended complaint has
9 been filed and served in this case. Accordingly, they are denied.
10

11 Finally, on February 14, 2011, Plaintiff filed an application to proceed *in forma pauperis*
12 and a proposed complaint in an entirely separate action in which he names some of the same
13 defendants and raises the same claims as he attempted to raise in this action, *i.e.*, the temperature
14 in his cells, the failure to train corrections officers, lack of medical attention, rotten food, bunk
15 assignment, and excessive noise. *Clemons v. Pastor, et al.*, No. C11-5133RBL/KLS (ECF No. 1
16 therein).
17

18 Plaintiff has been carefully instructed on numerous occasions as to the scope of his
19 remaining claims in this case. His previous claims relating to the failure to process grievances
20 and food were dismissed. He was given an opportunity to replead claims relating to (1) medical
21 care; (2) temperature in his cell; (3) sanitary conditions of his cell; (4) excessive noise; and (5)
22 failure to train subordinates. ECF No. 43. He has not done so in this case.
23

24 Accordingly, it is **ORDERED**:

25 (1) Plaintiff shall file an amended civil rights complaint in this action on or before
26 **April 8, 2011** regarding the following claims: 1) medical care; (2) temperature in his cell; (3)

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1 sanitary conditions of his cell; (4) excessive noise; and (5) failure to train subordinates. If he
2 does not do so, the court will recommend dismissal of this action as frivolous as to the unnamed
3 defendants, pursuant to 28 U.S.C. § 1915, and the dismissal will count as a “strike” under 28
4 U.S.C. § 1915(g). Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who
5 brings three or more civil actions or appeals which are dismissed on grounds they are legally
6 frivolous, malicious, or fail to state a claim, will be precluded from bringing any other civil
7 action or appeal in forma pauperis “unless the prisoner is under imminent danger of serious
8 physical injury.” 28 U.S.C. § 1915(g).

10 (2) Plaintiff’s motions for summary judgment and for an official and personal
11 investigation (ECF Nos. 53 and 54) are **denied as premature.**

12 (3) **The Clerk is directed to send to Plaintiff the appropriate form for filing a 42**
13 **U.S.C. 1983 civil rights complaint, a copy of this Order and a copy of the General Order.**

15 DATED this 17th day of March, 2011.

17 
18 Karen L. Strombom
19 United States Magistrate Judge